

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

|                                     |   |             |
|-------------------------------------|---|-------------|
| BRYAN BOOKER,                       | ) |             |
|                                     | ) |             |
| Plaintiff,                          | ) |             |
|                                     | ) |             |
| v.                                  | ) | 1:08CV00011 |
|                                     | ) |             |
| JOHN E. POTTER, Postmaster General, | ) |             |
| United States Postal Service, and   | ) |             |
| DARLA HATCHER,                      | ) |             |
|                                     | ) |             |
| Defendants.                         | ) |             |

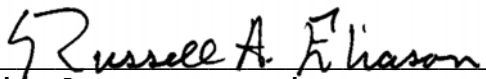
**MEMORANDUM OPINION AND RECOMMENDATION OF MAGISTRATE JUDGE ELIASON**

This matter comes before the Court on the unopposed motion of Darla Hatcher to dismiss her as a Defendant from this case on grounds of lack of subject matter jurisdiction and for failure to state a claim. This Defendant shows that Plaintiff formerly worked for the United States Postal Service ("USPS") and has filed a complaint for violation of his rights under Title VII. Defendant Hatcher moves to dismiss this complaint against her individually because the Postmaster General, as head of the United States Postal Service, is the only proper party to such a suit.

Defendant shows that Plaintiff was employed by the USPS as a letter carrier in Winston-Salem, North Carolina. Defendant Hatcher was one of his supervisors. Plaintiff was removed from his position in October, 2006. He appealed the decision, but it was affirmed. In commencing a civil action against the USPS, the statute requires that Plaintiff name the "head of the department, agency, or unit, as appropriate . . . ." 42 U.S.C. § 2000e-16(c). That is, the party must name the head of the agency or department,

and such person is the only proper defendant in a Title VII action against the United States Government. Hall v. Small Business Admin., 695 F.2d 175, 180 (5th Cir. 1983); Keene v. Thompson, 232 F. Supp. 2d 574, 580 n.6 (M.D.N.C. 2002); Johnson v. American Overseas Marine Corp., No. 05-2811, 2006 WL 3290462 (E.D. La. November 9, 2006)(collecting cases). In this case, Plaintiff named the Postmaster General and improperly attempted to add Defendant Hatcher as a co-defendant. Consequently, the discrimination claim against Hatcher should be dismissed. See id.; Healy v. U.S. Postal Service, 677 F. Supp. 1284, 1287 (E.D.N.Y. 1987).

**IT IS THEREFORE RECOMMENDED** that Defendant Darla Hatcher's motion to dismiss (docket no. 6) be granted, and that this Defendant be dismissed as a defendant in this action.

  
United States Magistrate Judge

July 31, 2008